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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/476,490	12/30/1999	LINDSAY S. MACHAN	110129.411	7911

500 7590 08/02/2002

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EXAMINER

HO, UYEN T

ART UNIT PAPER NUMBER

3731

DATE MAILED: 08/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/476,490

Applicant(s)

MACHAN ET AL.

Examiner

(Jackie) Tan-Uyen T. Ho

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 5-8, 10, 21-29, 32 and 34-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 11-20, 30, 31 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7, 9. 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. According to the response to the restriction requirement filed on 05/13/2002, claims 5-8, 10, 21-29, 32 and 34-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a non-elected group of invention and Species.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-3, 9, 12, 13, 15-20, 30, 31 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Buscemi et al. (5,968,092).

In regard to claims 1, 3, 9, 12, 13 and 15, Buscemi et al. disclose a tubular and cylindrical balloon-expandable stent that releases drugs (a vessel wall irritant or adhesion agent) that promote epithelial cell growth (col. 11, lines 6-18).

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In regard to claims 2, 16 and 17, the drugs promotes cell growth inherently induce or accelerate an in vivo fibrotic reaction causing the stent to adhere to the vessel walls.

In regard to claims 18, 19 and 20, a coating delays the onset of adhesion or fibrosis (col. 11, lines 40-60).

In regard to claims 30-33, Buscemi et al. disclose a method of manufacturing an adhesive stent graft comprising coating a stent graft with an agent which induces adhesion of the stent to vessel walls wherein the stent is coated by dipping the stent into the agent (col. 11, lines 40-67).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 9, 11-20, 30, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ley et al. (6,361,780) in view of Martin et al. (5,695,517). Ley et al. suggest making a drug delivery element or a collar (fig. 1) from silica (a porous material) to use with a stent so that the collar may contains and releases growth stimulators or all the drugs. Martin et al. disclose a self-expanded stent graft having a cylindrical or a bifurcated shape to treat a specific site in a vessel.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the stent of Marin et al. having a collar being

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made from a porous material containing growth stimulation agent in order to promote adhesion of the stent to the wall vessel and the stent that has the shapes and features as disclosed in Martin et al. reference in order to treat a tubular area or a bifurcated area of a vessel.


**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Froix (6,248,129) discloses a stent including adhesive materials on the surface.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is (703) 306-3421. The examiner can normally be reached on MULTIFLEX Mon. to Sat.. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

  
(Jackie) Tan-Uyen T. Ho  
July 17, 2002

  
MICHAEL J. MILANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700